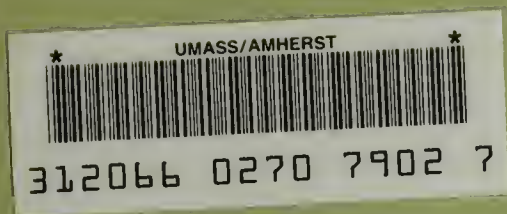


MASS. CD10.2: H 15



THE HOME RULE PROCEDURES ACT

CHAPTER 43B GENERAL LAWS

MAY 1977

GOVERNMENT DOCUMENTS
COLLECTION

JUL 25 1988

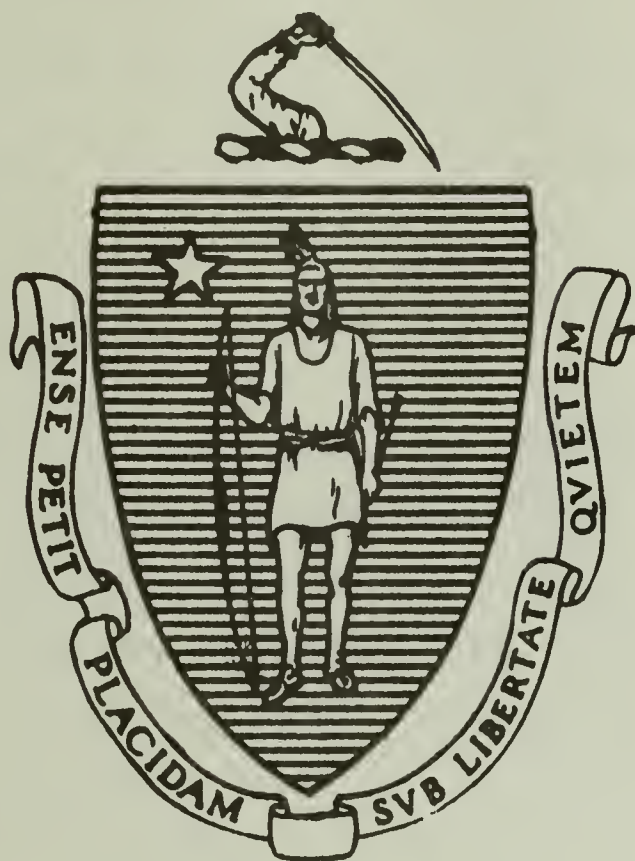
University of Massachusetts
Depository Copy

MASSACHUSETTS DEPARTMENT OF COMMUNITY AFFAIRS
OFFICE OF LOCAL ASSISTANCE

7810/176

Commonwealth of Massachusetts

Michael S. Dukakis • Governor



Executive Office of Communities and Development
Department of Community Affairs

William G. Flynn • Secretary

Robert H. Bateman • Assistant Secretary

Gerald W. Hayes • Assistant Secretary

Division of Community Services

Office of Local Assistance

John Sawyer • Administrator

Richard M. Kobayashi • Director

THE HOME RULE PROCEDURES ACT
CHAPTER 43B, MASSACHUSETTS GENERAL LAWS

MASSACHUSETTS DEPARTMENT OF COMMUNITY AFFAIRS
OFFICE OF LOCAL ASSISTANCE
One Ashburton Place - Room 1613
Boston, Massachusetts 02108
Telephone No. 727-3253

This report was financially aided through a federal grant from the U. S. Department of Housing and Urban Development under the Comprehensive Planning and Management Program authorized by Section 701 of the Housing Act of 1954, as amended.

Preface

On November 8, 1966, the voters of Massachusetts overwhelmingly approved the Municipal Home Rule Amendment to the Constitution of the Commonwealth. The Home Rule Amendment provides three basic rights:

1. The right of citizens to frame and revise a home rule charter for local voter approval or rejection;
2. The right of cities and towns to exercise any powers or functions which the General Court has power to confer upon it which are not inconsistent with the Constitution or the General Laws; and
3. Protection for cities and towns from unnecessary interference by the state government in local matters.

In late 1966, Governor John A. Volpe introduced, through a Special Message, legislation recommending the enactment of uniform procedures and standards governing charter adoption, revision, or amendment. This measure enacted into law as Chapter 734 of the Acts of 1966 provides a new chapter of the General Laws, Chapter 43B.

The text of Chapter 43B, "The Home Rule Procedures Act," and amendments since 1966 are provided in the following pages with a brief explanation of each section.

The document was prepared by Mark Morse, Principal Municipal Management Officer, Office of Local Assistance, Department of Community Affairs.



Digitized by the Internet Archive
in 2012 with funding from
Boston Library Consortium Member Libraries

<http://archive.org/details/homeruleprocedur00mors>

Table of Contents

	<u>Page</u>
Section 1. Citation	1
Section 2. Power to Adopt a Charter	1
Section 3. Petition Drive, Certification of Signatures	1
Section 4. Election Order	3
Section 5. Nomination of a Charter Commission	3
Section 6. Municipal Election	5
Section 7. Formation of Charter Commission	5
Section 8. Charter Commission Funding	7
Section 9. Preliminary and Final Charter Commission Reports	9
Section 10. Charter Amendments	9
Section 11. Submission of a Proposed Charter or Charter Amendments to the Voters	13
Section 12. Distribution of Approved Charter	15
Section 12A. Resubmission of a Defeated Charter	17
Section 13. By-Laws and Ordinances	17
Section 14. Enforcement of Charter Provisions	19
Section 15. Petition Requirements	19
Section 16. Filing Paper Documents	21
Section 17. Election Procedures	23
Section 18. Standard Plans of City and Town Government	23
Section 19. Amendment of Special Laws	23

COMMENTS

Section 1. Citation

This chapter is cited as the Home Rule Procedures Act.

Section 2. Power to Adopt a Charter

Cities and towns are authorized to adopt or revise charters.

Sections 3 and 11 provide procedures for the adoption or revision of a charter

Section 3. Petition Drive, Certification of Signatures

To establish a charter commission citizens must secure the signatures of 15 percent of the registered voters of the city or town at the last state election.

Petition forms are provided by the city or town clerk. Section 15 subsection (c) of this chapter prescribes the form the petition must take.

Once the required signatures are filed, the Board of Registrars of Voters has 10 days in which to verify the number of signatures.

Petitioners may file a written request to postpone for 30 days the date on which the petition is filed. The postponement provides the Board of Registrars with additional time to certify signatures (total of 40 days) and for petitioners to file additional sheets. The Board of Registrars is not required to certify signatures during the postponement; however, the certification of signatures must be completed within 10 days after the postponed effective date.

CHAPTER 43B MASSACHUSETTS

GENERAL LAWS

HOME RULE PROCEDURES

Section 1. This chapter may be cited as the "Home Rule Procedures Act." As used in this chapter, the terms "board of registrars of voters", "city council", and "board of selectmen" shall include any local authority of different designation performing like duties.

Section 2. Every city and town shall have the power to adopt or revise its charter or to amend its existing charter in accordance with procedures prescribed by this chapter.

Section 3. The adoption of a charter for any city or town under sections two and three of Article LXXXIX of the Amendments to the Constitution and the revision of any charter so adopted shall be initiated by filing with the board of registrars of voters of the city or town a petition signed by at least fifteen percent of the number of registered voters residing in said city or town at the preceding state election. Such petition may consist of a number of separate sheets, but each sheet shall be in substantially the form prescribed therefor in section fifteen and shall be signed and completed in accordance with the instructions contained therein. The city or town clerk shall furnish forms for such petition to any registered voter of the city or town requesting the same. Within ten days from such filing, the board shall check each name to be certified by it on the petition, shall certify thereon the number of signatures so checked which are names of registered voters in the city or town, and shall report the results to the city council or board of selectmen, as the case may be, by filing its report with the city or town clerk. Only names so checked shall be deemed to be names of registered voters for purposes of such petition. The board need not certify more than one hundred and forty percent of the number of names required to file a petition, and names not certified in the first instance shall not thereafter be certified on the same petition.

Notwithstanding the foregoing provisions, the persons responsible for filing such petition may elect to postpone the date on which such petition is deemed to be filed by filing a written request for such postponement with the board at the time such petition or any portion thereof

Section 4. Election Order

Within 30 days of the receipt of certification of sufficient valid signatures, the City Council or Board of Selectmen must provide for the order submitting the question of adopting or revising a charter to the voters. The election must contain (1) the question of adopting or revising a charter, and (2) provide for the election of a nine-member charter commission. At least 60 days must lapse between the election order and the election.

If the City Council or Board of Selectmen do not issue an election order, the question of adopting or revising a charter shall be submitted to the voters at the first regular election held 90 days after receipt by the City Council or Board of Selectmen of certification of sufficient valid signatures from the Board of Registrars.

Section 5. Nomination of a Charter Commission

Candidates for the Office of Charter Commission must file nomination papers with the City or Town Clerk at least 28 days before the election based on the following signature requirements:

<u>Population</u>	<u>Signatures</u>
under 6,000	10
6,000 - 11,999	25
12,000 - 49,999	50
50,000 - 99,999	100
100,000 and above	200

is filed. In such a case, the petition shall not be deemed to have been filed until the thirtieth day after such written request is filed. During such thirty day period, the board may, but shall not be required to, certify signatures on portions of the petition already filed and the persons responsible for filing such petition may, but shall not be required to, file additional separate sheets with the board, all of which shall be deemed to constitute part of the same petition. Certification of signatures shall be completed by the board within ten days after such postponed effective date.

Objections to the sufficiency and validity of the signatures on any such petition as certified by the board of registrars of voters shall be made in the same manner as provided by law for objections to nominations for city or town offices, as the case may be.

Section 4. Within thirty days of receipt of certification by the board of registrars of voters that a petition contains sufficient valid signatures, the city council or board of selectmen shall by order provide for submitting the question of adopting or revising a charter to the voters of the city or town, and for the election of a charter commission, at the first regular city election, or at the first annual or biennial town meeting for the election of town officers, held on or after the sixtieth day following the adoption of the order. Said order shall also provide for the nomination of charter commission members, who shall be nominated in accordance with this chapter. Said order shall not require the concurrence of the mayor in a city and shall not be subject to referendum. If an order of the city council or board of selectmen under this section has not been adopted within the thirty days specified above, the question of adopting or revising a charter shall be submitted to the voters and charter commission members shall be elected at the first regular city election, or at the first annual or biennial town meeting for the election of town officers, held on or after the ninetieth day after receipt by the city council or board of selectmen of certification provided for in the first sentence of this section.

Section 5. The signatures of the following number of registered voters shall be required to nominate charter commission members in cities or towns having the following number of inhabitants: two hundred such signatures if one hundred thousand or more inhabitants, one hundred such signatures if fifty thousand or more but less than one hundred thousand inhabitants, fifty such signatures if twelve thousand or more but less than fifty thousand inhabitants, twenty-five such signatures if six thousand or more but less than twelve thousand inhabitants and ten such signatures if less than six thousand inhabitants.

The last day for filing certified nomination papers for members of a charter commission with the city or town clerk shall be the twenty-eighth day preceding the date for their election. The manner of signing

Comments

Nomination papers may not contain party or political designation. Upon request, the City or Town Clerk shall furnish a candidate with one copy of a voting list.

Section 6. Municipal Election

A Charter Commission consists of nine registered voters elected at-large. Candidates' names are placed on the ballot in alphabetical order. A voter may vote for not more than nine persons.

If a majority of the votes cast upon the question of adopting or revising a charter is in the affirmative, the nine candidates receiving the highest number of votes are elected.

Section 7. Formation of Charter Commission

A Charter Commission must organize within ten (10) days and elect a chairman, vice-chairman, and clerk. The Commission must file notice of organization with the City/Town Clerk.

A Commission serves without compensation except for reimbursement of expenses.

and the time for presenting nomination papers for certification to the board of registrars of voters, and the manner of and time for certifying the same, shall be governed by section seven of chapter fifty-three. Such nomination papers shall contain information with respect to candidates, except that no party or political designation shall be used, and shall be filed with the city or town clerk by a responsible person and accompanied by the candidate's acceptance, all as provided by and subject to the provisions of sections eight and nine of chapter fifty-three applicable to the nomination of officers for such city or town. Objections to the sufficiency and validity of the signatures on any nomination paper as certified by the board of registrars of voters shall be made and disposed of in the manner provided by sections eleven and twelve of chapter fifty-three, or by special law applicable to the city or town.

Upon application made by any city or town clerk, the state secretary shall provide him with blank forms for the nomination of charter commission members in such city or town. The city and town clerks shall supply such forms only to candidates or to persons authorized in writing by a candidate to obtain said forms in his behalf. One copy of a voting list shall be furnished to each candidate by the city or town clerk upon request. Except as provided in this section, the provisions of sections one to twelve, inclusive, and section seventeen of chapter fifty-three shall not apply to the nomination of charter commission members.

Section 6. A charter commission shall consist of nine registered voters of the city or town elected at large and by official ballot, without party or political designation, at an election held in accordance with this chapter. The names of the candidates nominated in accordance with section five shall be placed on such ballot in alphabetical order, preceded by an instruction to the effect that a voter may vote for not more than nine persons as charter commission members whether or not he favors the election of a charter commission. The question of electing a commission to adopt or revise the charter shall be placed on such ballot in the form prescribed by the constitution.

If a majority of the votes cast upon the question of adopting or revising the charter is in the affirmative, the nine candidates receiving the highest number of votes shall be declared elected.

Section 7. A charter commission shall promptly organize by the election from among its members of a chairman, a vice chairman, and a clerk and shall file a notice of such organization with the city or town clerk. If no notice of organization is received by the city or town clerk within ten days after the election of the commission members, such clerk shall immediately call a meeting of the commission for the purpose. A charter commission shall continue to exist until thirty days after the election at which its charter adoption or revision proposal, if any, is required

Comments

Should a Commission member die, resign, or cease to be a registered voter, the remaining Commission members may, by majority vote, elect any registered voter to fill a vacancy.

A Charter Commission will continue to exist until 30 days after the municipal election at which a charter adoption or revision proposal is submitted to the voters. If no new charter proposal or revision is recommended, the Commission will exist until 30 days after submission and the Commission's final report to the Board of Selectmen or City Council.

Section 8. Charter Commission Funding

The Municipal Treasurer shall within 20 days of the municipal election credit to the Commission's account - with or without appropriation - the sum of:

<u>Population</u>	<u>Funds</u>
under 6,000	\$ 500
6,000 - 11,999	1,000
12,000 - 49,999	2,000
50,000 - 99,999	5,000
100,000 or more	10,000

Additional funds may be appropriated for a Charter Commission. The total contribution of a commission may not exceed 10 times the required contribution. Each city or town is required to provide suitable office space and reasonable access to facilities for holding public hearings free of charge, and may contribute clerical or other assistance.

A commission must be permitted to consult with and obtain advice and information for municipal officers and employees during ordinary working hours.

to be submitted to the voters under this chapter or until thirty days after submission to the city council or town meeting of a final report recommending no new charter or revision. If any member dies, resigns, or ceases to be a registered voter of the city or town, a vacancy shall result which shall be filled by the election of any registered voter of the city or town by vote of a majority of the remaining members. The commission may continue to act notwithstanding the existence of any vacancy. Members shall serve without compensation but shall be reimbursed from the commission's account for expenses lawfully incurred by them in the performance of their duties.

Section 8. (a) A charter commission may adopt rules governing the conduct of its meetings and proceedings and may employ such legal, research, clerical or other employees, who shall not be subject to the provisions of chapter thirty-one, or consultants as its account may permit. In addition to funds made available by a city or town the charter commission account may receive funds from any other source, public or private, provided, however, that no contribution of more than five dollars shall be accepted from any source other than the city or town unless the name and address of the person or agency making the contribution, the amount of the contribution and the conditions or stipulations as to its receipt or use, if any, are disclosed in a writing filed with the city or town clerk. The consent of a charter commission to any such condition or stipulation shall not be binding upon a city or town. Within thirty days after submission of its final report the charter commission shall file with the city or town clerk a complete account of all its receipts and expenditures for public inspection. Any balance remaining in its account shall be credited to the city's or town's surplus revenue account.

(b) Each city or town shall provide its charter commission, free of charge, with suitable office space and with reasonable access to facilities for holding public hearings, may contribute clerical and other assistance to such commission, and shall permit it to consult with and obtain advice and information from city or town officers and employees during ordinary working hours. Within twenty days after the election of a charter commission, the city or town treasurer shall credit to the account of the charter commission, with or without appropriation, the sum of five hundred dollars in a town of less than six thousand inhabitants, the sum of one thousand dollars in a town of six thousand or more but less than twelve thousand inhabitants, the sum of two thousand dollars in a city or town of twelve thousand or more but less than fifty thousand inhabitants, the sum of five thousand dollars in a city or town of fifty thousand or more but less than one hundred thousand inhabitants and the sum of ten thousand dollars in any other city or town. Such sum shall be provided by taxation in the manner set forth in section twenty-three of chapter fifty-nine if payment is made prior to the fixing of the annual tax rate, and otherwise shall be provided by transfer by the treasurer from available funds or by borrowing in the manner and for the period provided in the case of final judgments under clause (11) of section seven of chapter forty-four, and subject to all other applicable provisions of chapter forty-four except

Section 9. Preliminary and Final Charter Commission Reports

Within 45 days after its election, a Charter Commission shall hold a public hearing. Notice of time and place of public hearings before a Charter Commission shall be published at least 10 days prior to a hearing in a newspaper of general circulation in the city or town.

Within eight months after its election, the Commission shall prepare a preliminary report including the text of the charter or charter revision. The report shall be published in a newspaper having general circulation in the city or town. Additional copies should be available to be distributed by the City/Town Clerk.

Within four weeks of publication of the preliminary report, the Commission must hold a public hearing upon the report. Notice of time and place of the public hearing shall be published at least 10 days prior to the hearing in a newspaper of general circulation in the city or town.

Two copies of the preliminary charter must be furnished to the Attorney General. The Attorney General shall within four weeks furnish the Commission with a written opinion setting forth any conflict between the proposed charters and the General Laws and the Constitution.

Two copies of the preliminary charter must be furnished to the Massachusetts Department of Community Affairs.

Within 10 months after its election, the Charter Commission shall submit its final report to the City Council or Board of Selectmen. The final report shall include the text of the charter proposal, explanation of the proposal, and comments the Commission deems desirable, and indicate the major differences between the current and proposed charter.

A Commission minority may file a statement of not more than one thousand words.

A copy of the final report shall be submitted to the Massachusetts Department of Community Affairs and to the Attorney General.

See Section 11 for description of the role of the Board of Selectmen or the City Council.

Section 10. Charter Amendments

By a two-third's vote, a City Council (with concurrence of the Mayor) or a town meeting may propose charter amendments. Charter

that such borrowing may be authorized by the city treasurer and city manager, if any, otherwise the mayor of a city and by the town treasurer and board of selectmen of a town. A city or town may appropriate additional funds for its charter commission provided the aggregate contribution by a city or town to its charter commission does not exceed ten times the initial contribution required of the city or town under this section.

Section 9. (a) Within forty-five days after its election the charter commission shall hold a public hearing.

(b) Within eight months after its election the charter commission shall prepare a preliminary report including the text of the charter or charter revision which the commission intends shall be submitted to the voters and any explanatory information the commission deems desirable, shall cause such report to be published in a newspaper having general circulation in the city or town, shall provide sufficient copies of the preliminary report to the city or town clerk to permit its distribution to each registered voter requesting the same, and shall furnish two copies to the attorney general and two copies to the department of community affairs. Within four weeks after such publication, the commission shall hold one or more public hearings upon the report. Within four weeks after his receipt of the report, the attorney general shall furnish the commission with a written opinion setting forth any conflict between the proposed charter or charter revision and the constitution and laws of the Commonwealth. A copy of the opinion shall at the same time be furnished to the department of community affairs.

(c) Within ten months after its election, the charter commission shall submit to the city council or board of selectmen its final report, which shall include the full text and an explanation of the proposed new charter or charter revision, such comments as the commission deems desirable, an indication of the major differences between the current and proposed charters, and a statement of not more than one thousand words by the commission minority, if any, provided such statement is filed with the chairman of the commission within forty-eight hours after the commission's vote approving such report. A copy of said final report shall also be submitted to the department of community affairs and to the attorney general.

(d) All public hearings before a charter commission shall be held within the city or town at such time and place as may be specified in a notice published at least ten days prior to the hearing in a newspaper having general circulation in the city or town, but hearings may be adjourned from time to time without further published notice.

Section 10. (a) Amendments to a city or town charter previously adopted or revised under this chapter may be proposed by the city council of a city or the town meeting of a town by a two-thirds vote in the manner provided by this section; provided, that amendments of a city charter may be proposed only with the concurrence of the mayor in every city that has a

Comments

amendments become effective only after approved by a majority of the voters.

A charter amendment may not relate to the composition, mode of election or appointment, or term of office of the legislative body, the Mayor or City Manager, or the Board of Selectmen or Town Manager. These latter provisions must be altered by means of a Charter Commission.

A town meeting or a City Council may not propose a charter amendment which is substantially the same as an amendment already considered and voted upon within the last twelve months.

A town meeting or City Council must consider charter amendments suggested in writing by the Mayor, City Manager, any member of a City Council, or by a Town Manager or Selectman. A town meeting must consider charter amendments proposed by a local voter petition signed by ten registered voters. In a city, suggested amendments must be considered if proposed by a voter petition signed according to the following population scale:

<u>Population</u>	<u>Signatures</u>
12,000 - 49,999	50
50,000 - 99,999	100
100,000 or above	200

Upon receipt of a proposal for a charter amendment, the City Council or Board of Selectmen must order a public hearing or establish a committee to hold a hearing, no later than three months after the introduction of a proposal. The hearing must be held within four months after the introduction of a proposal. At least seven days' notice of the public hearing, published in a newspaper of general circulation, must be given.

Within six months after filing date, a City Council must take final action on a suggested charter amendment. In a town, the final action on a suggested charter amendment must be taken not later than the first annual town meeting held at least six months after the filing date of an amendment. At any time after the public hearing, two hundred registered voters of a town or twenty percent of the total number of registered voters, whichever is less, may request the Selectmen to call a special town meeting to consider the suggested amendment. The meeting must be held not more than 45 days after receipt of request.

After a proposed charter amendment is approved by a two-third's vote of a City Council or town meeting, a copy of the amendment shall be submitted to the Attorney General and the Department of Community Affairs. The Attorney General, within four weeks, must furnish a written opinion setting forth any conflict between the proposed amendment and the General Laws or Constitution.

mayor, and that only a charter commission elected under this chapter may propose any change in a charter relating in any way to the composition, mode of election or appointment, or terms of office of the legislative body, the mayor or city manager, or the board of selectmen or town manager. In this section, the word "mayor" shall mean an officer elected by the voters as the chief executive officer of a city or an officer lawfully acting as such, and the term "two-thirds vote" shall mean, in cities, a vote, taken by yeas and nays, of two-thirds of the members of a city council present and voting thereon, and shall mean, in towns, the vote of two-thirds of the voters present and voting at a duly called meeting.

(b) In addition to any amendment proposed by a city council or town meeting under subsection (a) the city council or town meeting shall consider and vote upon any suggested charter amendment which it would have the power to propose under subsection (a) and which is not substantially the same as an amendment already considered and voted upon by it within the last twelve months, and which is suggested to it in a written request signed by the mayor or city manager or any member of the city council in a city or by the town manager or any selectman of a town, or is suggested to it by a petition in substantially the form set forth in section fifteen, signed and completed in accordance with the instructions contained therein by at least ten registered voters in the case of a town and by as many registered voters, in the case of a city, as would be required to nominate a charter commission member in such city under section five, which written request or petition shall be filed with the city or town clerk.

At the earliest convenient time not later than three months after the date any suggested amendment is filed with the city or town clerk, the city council or board of selectmen shall order a public hearing to be held thereon before it or before a committee selected or established by it for the purpose, provided that any number of suggested amendments may be considered at the same hearing. Such a hearing shall be held not later than four months after the filing date of any suggested amendment to be considered, and at least seven days notice of such public hearing shall be published in a newspaper of general circulation in the city or town. Except where the hearing is held by a city council, the board or committee holding the public hearing shall report its recommendations to the city council or town meeting, as the case may be. Final action on such a suggested amendment shall be taken not later than six months after such filing date in the case of a city and, in the case of a town, not later than the first annual town meeting held at least six months after such filing date, provided that at any time after the public hearing two hundred registered voters of a town or twenty percent of the total number of registered voters of such town, whichever is less, may in writing request the selectmen to call a special town meeting to consider the suggested amendment, and the selectmen shall thereupon call such meeting which shall be held not more than forty-five days after the receipt of the request.

(c) Whenever an order proposing a charter amendment to the voters is approved by the mayor and city council or town meeting, a copy of the

Comments

If no conflicts are found, the order placing the proposed charter amendment before the voters shall take effect. The charter amendment becomes effective if approved by a majority of the voters at the next regular election.

Laws having the force of a city or town charter (special laws) may be amended by these procedures.

Section 11. Submission of a Proposed Charter or Charter Amendments to the Voters

Upon receipt of a final report of a Charter Commission, the City Council or Board of Selectmen must order the proposal submitted to the voters at the first annual city election or annual town election held at least two months after submission. Proposed charter amendments shall be similarly submitted to the voters at the first election held at least two months after the order proposing an amendment becomes effective.

The Selectmen or City Council must cause a copy of the final report of a Charter Commission or suggested charter amendment to be distributed (two weeks before the election) to each residence of one or more registered voters.

A charter proposal, if approved by a majority of the voters at an election, shall take effect on the day specified in the Charter. Charter amendments, if approved by a majority of the voters, become effective on the date specified.

proposed amendment shall be immediately submitted to the attorney general and to the department of community affairs and such order shall not take effect for four weeks after the date of such submission. Within such four weeks the attorney general shall furnish the city council or board of selectmen with a written opinion setting forth any conflict between the proposed amendment and the constitution and laws of the Commonwealth. A copy of the opinion shall at the same time be furnished to the department of community affairs. If the attorney general reports that the proposed amendment conflicts with the constitution or laws of the commonwealth, the order proposing such amendment shall not take effect except as may be specified by further proceedings of the mayor and city council or town meeting under subsection (a). If the attorney general reports no such conflict, such order shall become effective four weeks after its submission to the attorney general.

(d) No order or vote under subsection (a), (b) or (c) shall be subject to referendum or shall, except as provided in subsection (a), require the concurrence of the mayor.

(e) The provisions of subsections (a), (b), (c) and (d) shall apply to amendments of laws having the force of a city or town charter by virtue of section nine of Article LXXXIX of the Amendments to the Constitution as well as to amendments of a charter previously adopted or revised under this chapter.

Section 11. Upon submission of the final report of a charter commission under section nine, the city council or board of selectmen shall order the proposed charter or charter revision to be submitted to the voters of the city or town for their approval at the first regular city election, or at the first annual or biennial town meeting for the election of town officers, held at least two months after such submission, but a charter commission report which does not recommend the adoption or revision of a charter shall not be submitted to the voters. Such an order shall not require the concurrence of the mayor in cities and shall not be subject to referendum. A proposed charter amendment shall be similarly submitted to the voters at the first such election or meeting held at least two months after the order proposing such charter amendment becomes effective under section ten. The question of adopting a charter or revising a charter as recommended by a charter commission shall be submitted to the voters as a single question unless the report of the charter commission provides for the separate submission of proposed revisions. Unrelated charter amendments proposed by a city council or town meeting shall be submitted to the voters as separate questions.

The question of approving the adoption of or any revision of or amendment to a charter shall be placed on a written or printed ballot, which ballot, including ballot labels where voting machines are used, shall be prepared by public authority and at public expense. A copy of the ballot question and summary prepared in accordance with the following instructions shall be filed with the city or town clerk no later than

Comments

Section 12. Distribution of Approved Charter

A City or Town Clerk is required to prepare four certificates

thirty-five days before the election, and the form of the question shall be substantially as follows:

"Shall this (city) (town) approve the (insert "new charter recommended by the charter commission" or "charter revision recommended by the charter commission" or "charter amendment proposed by the (city council) (town meeting)", as appropriate) summarized below?

YES.	
NO.	

(Where a new charter or single charter revision is being submitted at an election, set forth here a brief summary of its basic provisions (composition and mode of selection of the legislative and executive branches and school committee or, if a change of none of these is involved, the most significant proposed change). Where separate revisions or any amendments are being so submitted, set forth here the substance thereof in a manner also sufficient to distinguish each from any other amendments or revisions to be considered at the same election. The charter commission shall prepare the summaries of its own proposals and the city solicitor or town counsel shall prepare the description of proposed amendments.)

The city council or board of selectmen shall cause the final report of a charter commission, or a charter amendment proposed in an order which has become effective under section ten, to be printed and a copy to be distributed to each residence of one or more registered voters. Such distribution shall occur not later than two weeks before the election at which the question of adopting, revising or amending the charter is to be submitted to the voters. Additional copies of such final report or proposed amendment shall be filed with the city or town clerk for distribution to registered voters requesting the same and one such copy shall be posted in his office.

A new charter or charter revision approved by a majority of the voters of the city or town voting thereon shall take effect on the day specified in such charter or revision, and any proposed amendment so approved shall take effect upon the date specified therein or in the city council order or town meeting vote proposing the same. . If two or more charter adoption, revision or amendment proposals are submitted to the voters in the alternative and are approved, only the alternative proposal receiving the highest number of affirmative votes shall take effect. If two or more charter adoption, revision or amendment proposals containing conflicting provisions are submitted to the voters, but not as alternatives, and are approved, all such proposals shall take effect, but the proposal receiving the highest number of affirmative votes shall be construed to prevent all conflicting provisions contained in other proposals from taking effect.

Section 12. Certificates in quadruplicate shall be prepared setting forth any charter that has been adopted or revised and any charter amendments approved and shall be signed by the city or town clerk. One such certificate shall be deposited in the office of the secretary of the Commonwealth,

Comments

setting forth any charter adopted or any charter amendments approved. The copies must be deposited with the Secretary of State, Secretary of Communities and Development, the Attorney General, and the remaining copy must be recorded in the records of the city or town and deposited in its archives.

Section 12A. Resubmission of a Defeated Charter

A charter which has failed to receive voter approval may be once more resubmitted to the voters at a regular city or town election held no later than the second year following the original submission of the charter. To be resubmitted to the voters, a charter proposal must have received at least thirty-five percent affirmative vote.

Section 13. By-Laws and Ordinances

Cities and towns may exercise any power or function which the General Court has power to confer through the enactment of by-laws and ordinances. By-laws and ordinances may not be inconsistent with the Constitution or General Laws.

one shall be deposited in the office of secretary of communities and development, one shall be deposited in the office of the attorney general, and the other shall be recorded in the records of the city or town and deposited in its archives. All courts may take judicial notice of charters and charter amendments of cities and towns.

The city council of each city, and the board of selectmen of each town, shall, at intervals of not greater than ten years, cause the charter of said city or town as revised or amended to be reprinted for distribution to such registered voters of said city or town as may apply therefor at the office of the city or town clerk. Acts of the general court which are included in such charter may be referred to by appropriate subject headings and statutory citations instead of being set forth at length. Copies of said document may be sold at a price not to exceed the cost of paper, printing and binding thereof, plus mailing charges if any, as determined by said clerk.

Section 12A. A charter submitted to the voters in accordance with the provisions of this chapter which has failed of approval at a city or town election, but which has received the affirmative votes of not less than thirty-five percent of those voting on the question, shall be considered an optional charter for such city or town. Upon the petition of ten percent of the registered voters of such city or town, said optional charter shall be once resubmitted to the voters at a regular city or town election held no later than the second year following the original submission of such charter to the voters. The city council in a city, the town council in a town having a town council, and in every other town the board of selectmen, shall cause any changes to be made in dates in the charter as originally submitted to the voters which are necessary to ensure the orderly implementation of the optional charter.

Section 13. Any city or town may, by the adoption, amendment or repeal of local ordinances or by-laws, exercise any power or function which the general court has power to confer upon it, which is not inconsistent with the constitution or laws enacted by the general court in conformity with powers reserved to the general court by section 8 of Article LXXXIX of the Amendments to the Constitution and which is not denied, either expressly or by clear implication, to the city or town by its charter. Whenever appropriations, appointments, orders, regulations or other legislative or executive actions within the scope of any such ordinance or by-law are necessary in the exercise of any power or function authorized by such ordinance or by-law, any such actions which are to be taken by a city council or town meeting may be taken by ordinance, by-law, resolution, order or vote, and any such actions which are to be taken by executive officers may be taken in any appropriate manner, subject, however, as to both such categories, to all provisions of the ordinance or by-law in question, the city or town charter, and other applicable law. Any requirement that an ordinance or by-law be entitled as such, or that it contain the word "ordained,"

Section 14. Enforcement of Charter Provisions

Provisions are provided in this section to enable citizens or the Attorney General to enforce provisions of this chapter. Within thirty days after the election at which a charter or charter amendment is adopted, ten or more registered voters may petition for judicial review of procedures whereby a charter is adopted or amended.

Section 15. Petition Requirements

"enacted," or words of similar import shall not affect the validity of any action which is required to be taken by ordinance or by-law. Nothing in this section shall be construed to permit any city or town, by ordinance or by-law, to exercise any power or function which is inconsistent with any general law enacted by the general court before November eighth, nineteen hundred and sixty-six which applies alike to all cities, or to all towns, or to all cities and towns, or to a class of not fewer than two. No exercise of a power or function denied to the city or town, expressly or by clear implication, by special laws having the force of a charter under section nine of said Article, and no change in the composition, mode of election or appointment, or terms of office of the legislative body, the mayor or city manager or the board of selectmen or town manager, may be accomplished by by-law or ordinance. Such special laws may be made inapplicable, and such changes may be accomplished, only under procedures for the adoption, revision or amendment of a charter under this chapter.

Section 14. (1) The superior court shall, upon petition of ten or more registered voters or of the attorney general, have jurisdiction in equity to enforce the provisions of this chapter.

(2) The provisions of chapter two hundred and thirty-one A applicable to municipal by-laws or ordinances shall apply to charters, charter revisions, charter amendments, by-laws and ordinances of a city or town adopted under this chapter. In addition, a petition for declaratory relief under chapter two hundred and thirty-one A may be brought on behalf of the public by the attorney general or, by leave of the court, by ten or more registered voters of the city or town. In the case of a petition brought by ten registered voters, the attorney general shall be served with notice of the preliminary petition for leave, and may intervene as a party at any stage of the proceedings; and the petitioners shall be liable for, but may in the court's discretion also be awarded, costs, which may include reasonable counsel fees.

(3) Judicial review to determine the validity of the procedures whereby any charter is adopted, revised or amended may be had by petition of ten or more registered voters of the city or town brought within thirty days after the election at which such charter, revision, or amendment is approved. If no such petition is filed within such period, compliance with all the procedures required by this act and the validity of the manner in which such charter, revision or amendment was approved shall be conclusively presumed. No charter adoption, revision or amendment shall be deemed invalid on account of any procedural error or omission unless it is shown that the error or omission materially and substantially affected such adoption, revision or amendment.

Section 15. (a) A petition for the adoption or revision of a charter shall conform with the requirements of subsection (c) and shall have a

Comments

A petition for the adoption or revision of a charter must conform with this section.

sentence in substantially the following form at the top of each page:

Each of the undersigned requests that the (city) (town) of revise its present charter or adopt a new charter, and each of the undersigned certifies that he is a registered voter of said (city) (town) whose residence addresses at the times set forth below were as shown below, and that he has not signed this petition more than once.

(b) A petition suggesting a charter amendment under section ten shall conform with the requirements of subsection (c) and shall have a sentence in substantially the following form at the top of each page:

Each of the undersigned requests that the (city council) (town meeting) propose the charter amendment(s) attached hereto to the voters of the (city) (town) of, and each of the undersigned certifies that he is a registered voter of said (city) (town) whose residence addresses at the times set forth below were as shown below, and that he has not signed this petition more than once.

(c) All petitions shall require the following information to be furnished by each signer in accordance with the following instructions which shall be printed on each page:

<u>Name</u> *	<u>Present Address</u> (Street and Number)	<u>Registered Address</u> (Street and Number January 1, 19..**)
.....
.....
.....

Instructions:

*Written signature of voter to be supplied; provided that a registered voter prevented from writing by physical disability may authorize another person to write his signature and address.

**If a voter was registered later than this date, the registered address on such later date shall be used.

If a petition is expected to be filed on or after July 15 of any year, the registered address on the preceding January 1 shall be used. If a petition is expected to be filed before July 15 of any year, the registered address on the second preceding January 1 shall be used.

No petition shall contain or be accompanied by any indication of party or political designation.

Section 16. Any paper or document which is required by this chapter to be filed with or submitted to the city or town clerk or a city council or a board of selectmen shall be deemed to be so filed or submitted when it

Section 17. Election Procedures

Election laws are applicable to the Home Rule Procedures Act; however, provisions of the Home Rule Procedures Act prevail if the provisions vary with other election laws.

Section 18. Standard Plans of City or Town Government

This section places a "freeze" on further adoption of the standard plans of city government, plans A to F (G.L. C. 43), and the standard plan of representative town meeting (G.L. C. 43A). These plans may be abandoned or amended by home rule charter procedures.

Section 19. Amendment of Special Laws

Special laws enacted by the General Court to apply to one municipality may be amended or repealed by use of the home rule procedures.

is delivered to the city or town clerk or to his office. Any paper or document which is required by this chapter to be filed with or submitted to a board of registrars of voters shall be deemed to be so filed or submitted when it is delivered to the office of the board or, if the board maintains no office, to the office of the city or town clerk. Any paper or document which is required by this chapter to be filed with or submitted to the attorney general shall be deemed to be so filed or submitted when it is delivered to the attorney general or to his office. Any paper or document which is required by this chapter to be filed with or submitted to the department of community affairs shall be deemed to be so filed or submitted when it is delivered to said department.

Section 17. The provisions of chapters fifty to fifty-seven, inclusive, applicable to city or town elections shall apply to the proceedings governed by this chapter so far as apt, but the provisions of sections fifty-five to fifty-eight, inclusive, of chapter fifty-four shall not be deemed to apply, and the provisions of this chapter shall prevail where they are in conflict with any applicable provisions of said chapters fifty to fifty-seven, inclusive.

Section 18. Any city or town having a charter under chapter forty-three or forty-three A or a method of electing officers under chapter fifty-four A may change the same in accordance with the procedures for the adoption or amendment of a charter prescribed by this chapter. Except as may be permitted by any general or special law enacted after November eighth, nineteen hundred and sixty-six, no city or town shall adopt or change charters or change its method of electing officers under said chapters forty-three, forty-three A, or fifty-four A or under any special laws in effect on such date, including without limitation chapters four hundred and fifty-two of the acts of nineteen hundred and forty-eight, six hundred and sixty-one of the acts of nineteen hundred and forty-nine and one hundred and fifty-two of the acts of nineteen hundred and fifty-four, as amended, and the procedures set forth in this chapter shall be exclusive.

Section 19. Clause fifth of section seven of chapter four shall not apply to this chapter. A special law relating to an individual city or town enacted subsequent to November eighth, nineteen hundred and sixty-six in compliance with clause (1) or clause (2) of section eight of Article LXXXIX of the Amendments to the Constitution shall be subject to amendment or repeal through the adoption, revision or amendment of a charter by such city or town in accordance with the provisions of sections three and four of said Article LXXXIX unless such special law specifically provides otherwise, and shall be subject to amendment or repeal by laws enacted by the general court in conformity with powers reserved for the general court by section eight of said Article LXXXIX of said Amendments.

